

E-002/C-92-228 ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE AND
CLOSING DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Complaint
by Arkla, Inc. and Minneapolis
Energy Center, Inc. against
Northern States Power Company

ISSUE DATE: May 11, 1992

DOCKET NO. E-002/C-92-228

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PROCEDURAL HISTORY

I. Factual Background

Arkla, Inc. (Arkla), the parent company of Minnegasco, was one of three final candidates for a contract with the University of Minnesota (U of M) to design, construct and maintain significant improvements to the steam heating plants on the U of M's Minneapolis/St. Paul campuses. Arkla's proposal for a new natural gas fired steam plant included an option for 37 MW of cogenerated electric power to meet a substantial portion of the electric load on the campuses. If Arkla's bid were accepted by the U of M, Arkla's contract rights would be assigned to Minneapolis Energy Center, Inc. (MEC), which would actually implement the project.

Operators of cogeneration facilities must assure that a backup supply of electricity is available for customer use when their facility is closed for maintenance or subject to unexpected outages. Because the U of M is part of the service territory of Northern States Power Company (NSP), NSP would be in a position to offer standby electric service to the U of M cogeneration facility. Arkla and NSP entered into talks regarding the use of such standby service by Arkla.

II. Proceedings to Date

On March 24, 1992, Arkla and MEC filed a joint complaint against NSP regarding NSP's Standby Service Rider.

On March 31, 1992, the Commission issued its ORDER ADVANCING TIME FOR FILING ANSWER AND HEARING. In that Order the Commission required NSP to file its answer to the complaint on or before April 6, 1992, and scheduled a hearing on the complaint for April 9, 1992. The Commission advanced the time for filing and consideration so that its decision could be known before the U of M reached its decision regarding a cogeneration vendor/construction contractor on April 10, 1992.

On April 8, 1992, Arkla and MEC submitted further filings.

On April 9, 1992, the Commission met to consider Arkla's and MEC's complaint. At the meeting, the Commission concluded that substantive issues had been raised regarding the Company's Standby Service tariff. The Commission therefore expressed its intention of allowing all interested parties a chance to comment further. Comments would be focused on the scope and nature of further proceedings which parties might deem necessary to resolve Standby Service tariff issues.

On April 10, 1992, the U of M made its final decision regarding the choice of a cogeneration vendor/construction contractor. The U of M did not choose Arkla as its vendor.

On April 13, 1992, due to the U of M's decision, Arkla and MEC requested that the Commission accept the withdrawal of their complaint against NSP. The companies asked that their withdrawal be without prejudice so that they would be free to participate in any future Commission proceeding regarding NSP's Standby Service Rider.

On April 20, 1992, the Commission issued a notice of Arkla's requested withdrawal to interested parties. Responsive comments were received from the Izaak Walton League, NSP, the U of M and the Department of Public Service (the Department). The Izaak Walton League recommended that the Commission order a proceeding to investigate the Arkla complaint. While the other three commenting parties did not object to withdrawal of the complaint, the U of M and the Department recommended that the underlying issues of standby service tariffs be resolved in the future by the Commission.

On April 28, 1992, Arkla/MEC's request to withdraw the complaint came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

III. Commission Analysis

The fact that Arkla, MEC, NSP, the U of M and the Department have proposed or concurred with the withdrawal of Arkla/MEC's complaint indicates that there is no current dispute among the parties regarding NSP's Standby Service Rider. Since a dispute no longer necessitates Arkla/MEC's complaint, the Commission finds that it is appropriate to accept its withdrawal.

The Commission notes, however, that underlying issues regarding NSP's Standby Service charges have been raised by the parties and are as yet unresolved. These issues include the utility's proper charge to customers for standing by with capacity, and the proper relationship between General Service and Standby Service demand charges during customers' system outages.

The Commission feels that these issues must be resolved to ensure that NSP is offering just and reasonable Standby Service rates. The Commission will therefore direct that Standby Service rate issues be explored and developed in NSP's next general rate case, which NSP has indicated will be filed in November 1992. The Commission finds that the rate case setting is the proper means of providing a full analysis of Standby Service issues. In the general rate case, the Standby Service Rider can be viewed in the context of the Company's rate design, tariffs and riders. The Commission will best be able to balance the interests of ratepayers, stockholders and qualifying facilities in the rate case setting.

The Commission has chosen a general rate case rather than a contested case proceeding as the best means of exploring the Standby Service issues raised by the parties. A contested case hearing on Standby Service issues would focus on those issues alone and would not allow the Commission to examine the issues in light of the full financial and rate design picture developed in a rate case. Since Arkla's bid for the U of M construction/cogeneration contract was rejected, the parties are no longer pressing for resolution of the Standby Service issues. It would therefore be difficult to justify the extra expense and time required for a discreet contested case proceeding. It would also be a hardship for intervenors with limited funds to appear in a contested case proceeding on Standby Service issues as well as NSP's general rate case.

For the reasons stated above, the Commission will approve the withdrawal of Arkla/MEC's complaint without prejudice. The Commission will defer exploration of the underlying issues of Standby Service until NSP's next general rate case.

ORDER

1. Arkla's and MEC's complaint filed March 24, 1992 is dismissed without prejudice.
2. Underlying issues of Standby Service rates will be considered in NSP's next general rate case.
3. Docket No. E-002/C-92-228 is closed.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)